

Wildlife and Boat Committee Meeting Minutes
4016 West Broad Street
Richmond, Virginia
June 5, 2008
9:00a.m.

Present: John W. Montgomery, Jr., Committee Chairman, Charles Yates and Ward Burton; Director: Robert “Bob” Duncan; Staff: Gary Martel, Bob Ellis, David Whitehurst, Becky Gwynn, Ray Fernald, Charlie Sledd and Colonel Dabney “Dee” Watts.

Mr. Montgomery welcomed everyone and called the meeting to order at 9:00a.m. Mr. Montgomery noted for the record that a quorum was present.

Approval of Minutes: Mr. Montgomery called for a motion to approve the minutes of the May 19, 2008 meeting. **Mr. Yates made the following motion: Mr. Chairman, I move that the minutes of the May 19, 2008 meeting be approved as submitted. Motion Seconded by Mr. Burton. Ayes: Montgomery, Yates and Burton.**

Mr. Montgomery announced that the Committee would now here the proposed Parasail Regulation Recommendation from Mr. Sledd noted as Number 6 on your agenda.

Proposed Parasail Regulation Recommendation: Mr. Sledd provided the committee an update on the proposed regulation. These were originally presented to the Board at the July 2007 meeting, and during that meeting public comments were received from two of the three parasail operators from Virginia Beach stating their opposition to the proposed regulation and the actual law. Since that meeting, Mr. Sledd has held a work session with the operators to reach agreement on the needed language in the proposed regulation. The proposal-stage recommendation will be presented at the Board Meeting on July 15th. Staff will be recommending that the parasail regulations become effective 2009 so as not to affect operations for these businesses during their 2008 operating season. The Committee received a copy of the proposed regulation.

CHAPTER 450
4 VAC 15-450-10 through 4 VAC 15-450-40

Summary

The proposal-stage recommendation is to add a new Chapter 450 in the boating regulations regarding commercial parasail operations pursuant to Chapter 625 Virginia Acts of Assembly – 2007 Session.

Recommended regulation language:

CHAPTER 450

WATERCRAFT: COMMERCIAL PARASAIL OPERATIONS

- 4 VAC 15-450-10. Application
- 4 VAC 15-450-20. Definitions
- 4 VAC 15-450-30. Commercial Parasailing Activities
- 4 VAC 15-450-40. Penalties

4 VAC 15-450-10. Application.

This chapter applies to all commercial parasail operations on waters of the Commonwealth.

4 VAC 15-450-20. Definitions.

As used in this chapter, unless the context clearly requires a different meaning, the following words and terms shall have the following meanings:

“Commercial parasail operation” means all parasail activities engaged in or caused to be engaged in by any person or legal entity with the object of making a profit or obtaining an economic benefit either directly or indirectly.

“Operate” means to navigate or otherwise control the movement of a vessel.

“Parasailing” means the activity in which an individual is transported or carried aloft by a parachute, sail, or other material attached to a towline which is towed by a vessel where the rider ascends into the air by the towline being extended from the vessel and remains suspended in the air as the vessel runs its course.

“Vessel” means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

“Waters of the Commonwealth” means any public waters within the territorial limits of the Commonwealth, the adjacent marginal sea and the high seas when navigated as a part of a journey or ride to or from the Virginia shore.

4 VAC 15-450-30. Commercial Parasailing Activities.

A. Commercial parasailing operators shall comply with the following provisions:

1. All commercial parasail operators shall have a valid Coast Guard License for carrying passengers for hire.
2. Vessels engaged in parasailing operations must be equipped with a rear launch platform and direct launch and recovery hydraulic winch system used to pay out and reel in the towline.
3. Prior to leaving the dock, all passengers and parasail participants shall be

required to view a parasail safety briefing video and/or be given a written parasail safety briefing handout. Briefing materials shall be consistent with information approved or provided by the Professional Association of Parasail Operators (PAPO).

4. Parasailing shall only be conducted from one-half hour before sunrise to one-half hour after sunset.

5. All parasail riders, when attached to the harness of a parasail canopy, shall wear a United States Coast Guard approved Type I, II, or III noninflatable personal flotation device that is in serviceable condition and of the proper size. The rider must be secured in a seat harness attached to an ascending type of parachute which is connected to the towline.

6. All parasailing operations shall include, in addition to the operator of the vessel, an observer 18 years or older at all times to monitor the progress of an airborne parasail rider and parachute.

7. All parasailing towing vessels, when operating more than 1,000 feet from shore, shall be equipped with a VHF radio that is in working order and tuned to Channel 16.

8. Parasailing shall be prohibited when there are sustained winds in excess of 20 mph/17.5 knots and/or seas in excess of 6 feet in the area of operation.

9. Parasail operation towlines shall not exceed 1,200 feet in total length on the vessel's winch drum or exceed 1,000 feet of towline from boat to canopy yoke while conducting parasail flight operations. All commercial towlines must have a minimum diameter of 3/8 inches, be a maximum length of 1,200 feet, and have a minimum tensile strength of 4,800 lbs. An in-service date shall be logged whenever new line is installed.

10. Parasail operators shall inspect the towline in its entirety daily for damage and/or wear and, if necessary, shall immediately replace the line. A minimum of 2 feet shall be trimmed from the towline bitter end within a maximum period of 7 days or every 400 flights or as may become necessary. The towline shall be kept clean and well maintained in accordance with manufacturers' specifications, requirements, and/or recommendations. A written log of such inspections and maintenance shall be kept at all times.

11. Parasail vessel operators shall at all times maintain a safe parasail chute distance from any surf-zone, shoreline, or fixed object when engaged in actual parasail operations. This includes all of the following: (i) the canopy shall not be allowed to pass within three times the length of the towline from shore or any structure, (ii) when the wind has an onshore component, the canopy's minimum distance from shore is a function of wind speed as follows: either 1,000 feet or a

sliding distance based on wind speed [0-5 mph – 600 feet, 6-10 mph – 1,000 feet, 11-15 mph – 1,800 feet, 16-20 mph – 2,400 feet].

12. Parasail operators shall only launch and land riders from the flight deck of the vessel. Spectators shall not be permitted on the launch/landing deck area while the vessel is engaged in actual parasail operations. At no time shall there be more than three passengers in any canopy. Multi-passenger flights shall only be conducted after the vessel operator has made reasonable judgment regarding the flight safety prior to each flight and then only under the following conditions: (i) wind conditions must be adequate, stable and persistent, (ii) sea conditions must be conducive to such activities, (iii) commercial equipment specifically designed and professionally manufactured for multi-passenger flight operations must be utilized, (iv) all equipment manufacturers' specifications, requirements and/or recommendations must be adhered to, and (v) the vessel's winch system must be equipped with a functional level-winder during all multi-passenger flights.

13. A person may not operate or manipulate any vessel by which the direction or location of a parasail may be affected or controlled in such a way as to cause the parasail or any person thereon to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object.

14. Toe dipping shall only be conducted after the vessel operator has made reasonable judgment regarding the safety of the activity and his or her ability to control such an activity and then only under the following condition: (i) wind and sea conditions are conducive to such activity. Deliberate dipping above the ankles or allowing a participant to touch the water during his or her flight within 200 feet of another vessel or object or within 50 feet of the stern of the tow vessel is prohibited.

15. Commercial parasail operators shall notify the Department at least 14 days in advance of the commencement of annual operations.

4 VAC 15-450-40. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

Rationale:

The 2007 Session of the Virginia General Assembly passed House Bill 2031 (Chapter 625 Virginia Acts of Assembly – 2007 Session) that requires the Board of Game and Inland Fisheries to promulgate regulations applicable to the commercial operations of parasail operators on waters of the Commonwealth. These regulations shall take into

consideration the operating standards and guidelines of the Professional Association of Parasail Operators.

Mr. Montgomery thanked Mr. Sledd for his presentation.

Update on White Nose Syndrome Disease in Bats: Mr. Montgomery called upon Mr. David Whitehurst and Mr. Ray Fernald to present an update on the White Nose Syndrome (WNS) Disease in Bats. Mr. Whitehurst gave the following report:

White Nose Syndrome Update

Status:

WNS is now known from four states in the northeast and suspected in another. At least 18 sites (caves or mines) in NY, 5 in VT, 4 in MA, and 2 in CT are confirmed to be affected with WNS. Three sites in PA are considered suspect. While bats at these sites have been documented with a white fungus, no fatalities have occurred. Because pathologists do not have a causative agent to sample for, specimens from the PA sites have not been confirmed with WNS. Survey efforts in WV, MD, and VA have returned negative results for WNS.

Containment Efforts:

The USFWS has developed disinfection protocols and recommendations for cavers and karst biologists with the intent of containing the potential spread of WNS through human activity. The basic premise is to not use equipment from affected states in non-affected states and to disinfect gear when moving from site to site. In addition, the USFWS has developed draft disinfection protocols and recommendations for individuals conducting bat field studies. Again, the basic premise is to not use equipment from affected states in non-affected states and to disinfect gear when moving from site to site.

Information Exchange:

The USFWS has been conducting weekly conference calls with state wildlife agencies with the purpose of providing updates on the status, research, and current understanding of WNS. As an offshoot of these calls, a WNS Conference is being held the second week of June in NY to discuss the current knowledge and prioritize research and monitoring efforts. The conference will also discuss and pursue funding efforts for prioritized research and monitoring projects.

Direction in Virginia:

- *DGIF is following the disinfection protocols and recommendations provided by the USFWS.*
- *DGIF is offering “loaner equipment” to consultants and researchers conducting bat field work in VA.*
- *Development of research/monitoring efforts will follow recommendations coming out of the June WNS Conference.*
- *DGIF will pursue funding for research/monitoring efforts through SWG and Section 6 proposals.*
- *DGIF staff Veterinarian is following up on “unusual” bat fatalities that are reported to rehabbers, veterinarians, and the VA Department of Health.*

Mr. Whitehurst noted as a cost saving measure to the Agency, staff would not be attending the conference in New York but conference materials have been requested.

After a brief discussion was held by the staff and the Committee, Mr. Montgomery thanked Mr. Whitehurst for his report.

Update on Status of Fish Kills in James River and Shenandoah River Systems

Mr. Montgomery called upon Mr. Gary Martel, Director, Fisheries Division to present the status report on the fish kills in the James River and Shenandoah River Systems. Mr. Martel took this opportunity to introduce Mr. Stephen J. Reeser, Fish Biologist located in the Region IV office. Mr. Reeser presented the following information to the committee: Mr. Reeser stated that today he would show the committee the how, what, where but the big missing piece is the why. Mr. Reeser presented this report.

Update on Shenandoah and James River Fish Kills – June 2, 2008

The springtime fish kills that have impacted the North and South Forks of the Shenandoah River since 2004 and the Cowpasture and upper James River since 2007 have returned in the spring of 2008. These fish kills primarily affect adult smallmouth bass and sunfish, and have shown up in other species (suckers, fallfish) to a lesser degree. Many of the affected fish have developed skin lesions before succumbing to the kill. Only certain individuals within each species seem to be affected, while the remainder of the population appears healthy. In spite of the fish kills, reproduction has been excellent in recent years, and population numbers have not been severely reduced.

Fish kills have occurred later than usual this spring, possibly due to cooler springtime water temperatures. Although a few, isolated reports of dead and dying fish were received in April, during that past two weeks the numbers of reports and numbers of dead fish have increased greatly. The 2008 fish kills appear to be most severe in the upper James River (upstream of Buchanan), with slight to moderate kills occurring in the Cowpasture and the North and South Forks of the Shenandoah. Fishing success remains fairly good in these rivers, even in the areas experiencing fish kills.

A troubling development is the recent occurrence of fish kills occurring on the lower Jackson River, near Low Moor. Follow-up sampling by DGIF on May 30 indicated that a substantial number of fish were suffering from skin lesions in this area. The apparent movement of these fish kills remains a puzzle to scientists. In addition to fish kills showing up in new areas, we have seen areas that were hit hard in past years, such as the lower North Fork Shenandoah, come up “clean” this spring.

Sampling by DEQ, DGIF and other researchers continues as outlined in the 2008 fish kill investigation plan to evaluate water, fish populations, and bacteria at both fish kill and non-fish kill sites. These samples have been taken over time to reflect conditions before, during, and after fish kill events. DEQ and DGIF investigators, along with a number of university and federal scientists, continue to communicate on a regular basis and focus their efforts on identifying causes of these events.

The Committee requested staff to present this to members of the General Assembly along with the other wildlife diseases.

DGIF has funded two studies and the staff stated they felt the partnership with various organizations was working well.

Mr. Martel stated the purpose of the presentation today was to make the Committee and the Board fully aware of what was being done to find solutions to the fish kill.

David Whitehurst suggested to the Committee a possible briefing for the Virginia Congressional Staff.

The Committee said this was a good opportunity for the Agency to gain good publicity on the issue.

The Committee requested the staff to give this presentation at the July Board Meeting.

The Committee thanked the staff for their hard work and the presentation.

Update on Shooting Ranges on Wildlife Management Areas

Mr. Montgomery said he has received several calls regarding the Chickahomony Wildlife Management Area. Mr. Ellis presented the following report to the Committee:

Mr. Ellis stated there are 6 wildlife management areas that have sighting-in ranges. These are located at Clinch Mountain, Gathright, Phelps, Whit Oak Mountain, Amelia and Chickahominy. All of the ranges are now on the same schedule of operation: September 1 through March 31, closed Mondays. They are generally open from 9am to dark, except Sunday. On Sundays they open at 1pm. This schedule was based on the sensitivity to other uses of the Wildlife Management Areas and to surrounding neighbors. These are “sighting-in” ranges as opposed to “general” shooting ranges. The schedule coincides with the bulk of hunter demand and the hunting season. The peak use by hunters falls within the open timeframe.

The Amelia WMA was first constructed 20 years ago, the Chickahominy ten years ago. Five years ago 4 more were constructed. The change in land use and growth of local development presents challenges in managing all of the agency ranges.

The Chickahominy is the range with the most recent changes. This range is the most popular range and is well appreciated by the current users. There is also notable over use by non-hunters. The current use level at the range has serious detractors, including hunter and adjacent property owners. Duck hunters on the Chickahominy have complained about shooting noise during hunting hours.

Two of the major complaints from the range users are: Why the current schedule and why no pistols.

The current schedule is agreeable to DGIF and USFWS to maintain and enhance breeding, nesting and brood rearing opportunities for wildlife while still allowing some

“sight-in” shooting of hunting firearms. It is compatible with our obligation to manage for habitats, wildlife populations and wildlife oriented recreation. The overuse of the range by shooters is not remotely related to hunting – incendiary rounds, .50 caliber center fire, using appliances and vegetables for targets. Many users have poor judgment and use the range at inappropriate hours (sunup, dusk, night). There is also the lack of staff and materials to run a range year-round.

Pistols are not allowed due to overuse by non hunters. 70% or more of the use at Chickahominy was from pistols, most with no practical application to hunting. The use of pistols has also exceeded our ability to manage, use of resources needed to maintain habitats and infrastructure. There is also an extremely high volume of fire, most unrelated to hunting.

We have also received complaints from the neighbors surrounding the range. Five years ago, shooters were using tracer rounds (a violation of rules) caused fire that burned must of the vegetative barrier between the range and several neighbors. The neighbors also filed a noise complaint. The agency consulted noise experts. The following recommendations were made: re-vegetation. This was accomplished after the first year and the installation of several rows of fast-growing evergreens were also placed around the range. It was also recommended that foam insulation be used on the ceiling of the shooting bench roof and this was completed during the maintenance period during the summer of 2007. The range is periodically closed on certain days and certain hours to accommodate weddings held on neighbor’s property. The Chickahominy river waterfowl hunters have complained about early hours of the range operation and others users of the WMA have complained about the former high volume of pistol fire.

Under the current schedule for the Chickahominy range satisfies most of these concerns. It is consistent with the operation schedule of other WMA ranges. It also meets the USFWS recommendations for a compatible use on Federal Assistance acquired and managed property. It also strikes the best balance between hunters’ need for sighting-in range and our (DGIF) obligation to manage Chickahominy for habitats, optimal wildlife populations and wildlife related recreation.

The staff is monitoring the changes that are currently in effect at the range.

Mr. Montgomery thanked Mr. Ellis for his report.

Other Business

Mr. Ellis also reported on upcoming agenda items for the July Board Meeting the Staff will present the federal frameworks for the Webless Migratory Game Birds and the early September Goose and Teal Seasons. Mr. Ellis stated he expected some changes for dove in the Federal frameworks going to a one option 70 day season and 15 bird bag limit. Mr. Ellis also indicated the September Goose season last year in the Federal frameworks allowed for unplugged shotguns, electronic calls, ½ hour after sunset and a bag limit of 15 birds. We only took the ½ hour after sunrise but anticipate the public might want

other options this year. A public hearing will be held at DGIF on June 23, 2008 to hear comment on the federal frameworks for the Webless and Early Goose and Teal Seasons

During the May 19th committee meeting, the staff presented a report to the committee on Mallard Release Areas. As a follow-up from that meeting, Mr. Burton wanted to know about the low harvest rates on these areas and the operations of these release areas in other states. Mr. Burton wanted to know if we (DGIF) were hurting the black duck. Mr. Ellis stated he felt that it had a negative impact on Black Duck nesting. Mr. Burton wanted to know if the process currently being used to operate these release areas is incorrect, does the Agency have a way to correct the problem. Mr. Ellis stated the staff is working with the operators to accomplish the decreased harvest rates but if the operators cannot meet the harvest quotas as indicated in their agreements; they are not meeting the conditions of the permit. If they continue not to meet the quotas, then technically their permits should not be renewed. Mr. Ellis said the Board voted last year to extend the moratorium on issuing new permits.

Sunday Hunting Discussion

Mr. Montgomery stated that he and Mr. Yates would like to table this issue.

The meeting was adjourned at 10:43 a.m. The next meeting of the Committee will be announced at a later date.

Respectfully submitted,

Beth B. Drewery
Board Secretary